

## **REMARKS**

Claims 15 and 16 are amended and claims 1-23 remain in the application for consideration. In view of the following remarks, Applicant respectfully requests reconsideration and allowance of the subject application.

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### **§ 112 Rejections**

Claims 15-23 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim certain subject matter. Without conceding the propriety of these rejections, Applicant has  
10 amended claims 15 and 16 to obviate the ground for these rejections. Accordingly, Applicant respectfully requests that the § 112, second paragraph, rejections of claims 15-23 be withdrawn.

### **Double Patenting Rejections**

15 Claims 1-5, 10-12, 15-18, and 21-22 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over U.S. Patent No. 6,666,365 to Feldman in view of U.S. Patent No. 6,340,266 to Bolotin, et al. ("Bolotin").

20 Claims 6-7 and 19 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Feldman in view of Bolotin and further in view of U.S. Patent No. 5,598,986 to Ando, et al. ("Ando").

25 Claims 8-9 and 20 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Feldman in view of Bolotin and further in view of Ando and still further in view of U.S. Patent No. 6,296,104 to Ito, et al. ("Ito").

Claims 13-14 and 23 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Feldman in view of Bolotin and further in view of U.S. Patent No. 6,082,603 to Takada, et al. ("Takada").

Applicant respectfully requests that the Office hold these rejections in abeyance until the notice of allowable subject matter.

### **103 Rejections**

5            Claims 1-5, 10-12, 15-18, and 21-22 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,666,365 to Feldman in view of U.S. Patent No. 6,340,266 to Bolotin, et al. ("Bolotin").

             Claims 6-7 and 19 stand rejected under 35 U.S.C. § 103(a) as being obvious over Feldman in view of Bolotin and further in view of U.S. Patent No. 5,598,986  
10        to Ando, et al. ("Ando").

             Claims 8-9 and 20 stand rejected under 35 U.S.C. § 103(a) as being obvious over Feldman in view of Bolotin and further in view of Ando and still further in view of U.S. Patent No. 6,296,104 to Ito, et al. ("Ito").

             Claims 13-14 and 23 stand rejected under 35 U.S.C. § 103(a) as being  
15        obvious over Feldman in view of Bolotin and further in view of U.S. Patent No. 6,082,603 to Takada, et al. ("Takada").

             Without conceding the propriety of these rejections, Applicant respectfully submits that Feldman cannot be applied as a reference in making out § 103(a) rejections of the above-mentioned claims. As discussed in 35 U.S.C. § 103(c):

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             Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or  
25        subject to an obligation of assignment to the same person.

             As mentioned by the Office in the Final Office Action of February 5, 2008, Feldman is applied by the Office as a reference under § 102(c) (see page 8 of the  
30        Final Office Action). Additionally, both Feldman and the subject matter of the present claims were, at the time the claimed subject matter in the present

application was made, “owned by the same person or subject to an obligation of assignment to the same person.”

Accordingly, and at least for this reason, Applicant submits that the Office has failed to establish a prima facie case of obviousness with respect to claims 1-  
5 23 and these claims are allowable.

### **Conclusion**

All of the claims are in condition for allowance. Accordingly, Applicant requests that the Office issue a Notice of Allowability. If the Office’s next  
10 anticipated action is to be anything other than issuance of a Notice of Allowability, Applicant respectfully requests a telephone call for the purpose of scheduling an interview.

Respectfully Submitted,

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